



Federal Communications Commission
Washington, D.C. 20554

JUL 24 1996

DOCKET FILE COPY ORIGINAL

The Honorable Jon D. Fox
U. S. House of Representatives
Easton and Edge Hill Roads
Abington, Pennsylvania 19001

Dear Congressman Fox:

Thank you for your letter of June 10, 1996, on behalf of your constituent, J. Joseph de Courcelle, III, regarding the Commission's decision to freeze acceptance of paging applications. Mr. de Courcelle expresses concern that the suspension of processing of paging applications will adversely affect small businesses that provide paging services. Mr. de Courcelle also expresses concern that paging frequencies will be awarded in a competitive bidding process, to the detriment of small businesses.

The Commission is currently conducting a rulemaking proceeding that proposes to transition from licensing paging frequencies on a transmitter-by-transmitter basis to a geographic licensing approach, using auctions to award licenses where there are mutually exclusive applications. In conjunction with that proceeding, the Commission initially froze processing of applications for paging frequencies. On April 23, 1996, the Commission released a First Report and Order in WT Docket 96-18 and PP Docket 93-253, which adopted interim measures governing the licensing of paging systems and partially lifted the interim freeze for incumbent paging licensees. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions made. Specifically, small and medium sized incumbent paging companies will be permitted to expand their service areas if the proposed new site is within 65 kilometers (40 miles) of an authorized and operating site. These interim rules will remain in effect until the Commission adopts final rules in the paging proceeding, which should happen shortly.

The Commission's adoption of the paging freeze did not require prior issuance of a Notice of Proposed Rule Making. Indeed, the Commission has imposed freezes in a number of other proceedings to facilitate the transition to geographic licensing and auctions, including Multipoint Distribution Service, 800 and 900 MHz Specialized Mobile Radio (SMR) Service, Location and Monitoring Service, 220 MHz Service and 39 GHz Service. Our decision in these proceedings to suspend acceptance of applications while the related rulemaking is pending advances two critical goals -- preservation of our ability to assign licenses through auctions, and deterrence of license fraud and speculation. In particular, we are concerned that the potential benefits of geographic area licensing, with competitive bidding used to select

from among competing applicants, would be undermined by continuing to invite site-specific applications for "free" spectrum on a first-come, first-served basis.

Assigning frequencies by auction, in turn, helps deter fraud and speculation and ensures that this valuable public resource is assigned rapidly and efficiently to the parties who value it the most, rather than given away to the first party who files its application with the Commission. The Commission has stated its belief in other contexts (such as Specialized Mobile Radio) that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We emphasize that the Commission's proposal to auction paging frequencies applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees operating under existing authorizations, such as Mr. de Courcelle.

The Commission's proposal to auction paging frequencies is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use.

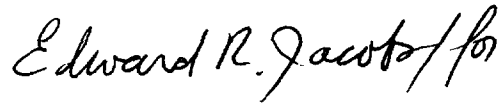
Moreover, the Commission has proposed to take a number of steps to ensure that paging providers that are small businesses are not adversely affected by the transition to geographic area licensing and the use of competitive bidding procedures to award paging licenses. For instance, we are committed to establishing licensing areas of a size that will provide realistic bidding opportunities for small and medium-sized operators. We have also proposed to allow paging licensees to partition their licensing areas in order to promote quicker build-out of small markets and rural areas. In addition, we have proposed special provisions in our competitive bidding rules for small businesses to facilitate their participation in the auction process, including bidding credits and installment payment provisions.

The Honorable Jon D. Fox

3.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward R. Jacobs / for". The signature is fluid and cursive, with a large initial 'E' and a stylized 'for' at the end.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

JON D. FOX
13TH DISTRICT, PENNSYLVANIA

BANKING AND
FINANCIAL SERVICES

GOVERNMENT REFORM
AND OVERSIGHT

VETERANS' AFFAIRS



Congress of the United States
House of Representatives
Washington, DC 20515-3813

June 10, 1996

Ms. Judith L. Harris
Director, Office of Legislative
And Intergovernmental Affairs
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Ms. Harris:

One of my constituents, Joseph de Courcelle, has contacted me for assistance on a problem with which the Federal Communications Commission might be able to help. I have enclosed all the information which we have been given on this particular case for your review.

Mr. de Courcelle has explained his problem to Michael DeMaio of my staff. Mr. de Courcelle indicates that the FCC has put a freeze on all new radio paging licenses except for the giant paging companies. Mr. de Courcelle indicates that the freeze, which he contends could be illegal because the FCC did not issue a Notice of Proposed Rule Making, has adversely affected his business. Mr. de Courcelle would like the FCC to lift the freeze on new licenses.

Mr. de Courcelle is concerned with the exclusion of small businesses from the FCC auctions of paging licenses. Mr. de Courcelle would like the FCC to assist small and medium size companies that can not afford to pay millions of dollars for licenses to participate at the FCC auctions.

Your prompt consideration, within the rules and regulations of the Federal Communications Commission, would be most appreciated. If you have any questions, please contact Michael DeMaio at my Eastern Montgomery County office, Easton & Edge Hill Roads, Abington, Pa. 19001, (215)885-3500.

Sincerely,

Jon D. Fox
Member of Congress

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May 28, 1996

Congressman Jon D. Fox
E. Montgomery Cty. Office
Easton & Edge Hill Rds.
Abington, PA 19001

Dear Mr. Fox,

I know you and your staff are very busy, so I'll make this brief - although it is Extremely Important.

I am the owner & President of a small Electronics Manufacturing firm in the suburban Norristown area. We have been in business for 22 years, and we employ 15-22 very good, hard-working people. We design and manufacture Radio Communications Equipment for the 2 Way Radio Market, (such as Police, Fire, and Business 2 Way Radio), and in the last 8 years we have also gotten into the Radio Paging equipment market.

While our conventional 2 Way Radio equipment has been impacted by off shore competition in the past several years, our Radio Paging equipment sales have been growing - to the point where Paging Transmitters (and many related accessories) are about 90% of our business. As you may know, Paging is one of the "new" P.C.S. or "Wireless" Radio Services now starting to grow rapidly. (Cellular Telephones are a closely related industry.) [PCS is "Personal Communications Services".] This Industry is slated to show Tremendous Growth over the next 10-20 years, and we would like to provide hundreds of local jobs in the future - if we can get the support we badly need.

Our problem is: in early February, 1996, the FCC suddenly, and with no advance notice, put a "Freeze" on all new Radio Paging Licenses - (except that it would not apply to the few Giant, Multi-Million Dollar nationwide Paging Licensees - who do not buy from us anyway). This "Freeze" has thrown the entire Paging Industry in the U.S. into a state of Chaos and Dispair. ~~The~~ Industry has literally ground to a HALT!!

Our Sales for Paging Equipment have literally fallen to just about ZERO!!! [NOT Down just 20 or 30%, but DOWN about 95% !!!] As mentioned above, Paging Equip. accounts for about 90% of our Sales. This FCC Freeze is absolutely KILLING OUR BUSINESS!! No business can survive like this, and we certainly cannot survive much longer. It is not only affecting us, but many, many small through large Manufacturing and Paging companies all over the USA. We heard that one 30 man co. in the Midwest only sold 2 Paging Terminals last month, (appx. \$4,000. total!). Obviously, there's no way a 30 person co. can survive very long with only \$4K in Sales every month!! Paging service companies have totally STOPPED putting in new transmitter sites, and even STOPPED Planning them. This will have a very negative impact for many months to come. If this Freeze doesn't end almost immediately, it could drive this company and many others into Bankruptcy!! And that would be a disaster for me and everyone here who has worked so long and very hard for almost a quarter century to build-up this business!

If that happened, I would lose not only this business, but my Home and Life Savings, which collateralize our bank loans!! Also, everyone here and at similar firms would be thrown out of work - including many good people (and Voters) who have been doing this type of work for their entire life! We certainly hope that you can put pressure on the FCC to immediately END this Freeze on new Paging Licenses, and get this good industry moving again quickly.

NOTE that normally the FCC issues a "Notice of Proposed Rule Making" for something like this, and many months go by before anything actually happens - if it EVER does. But in this case, that normal procedure wasn't followed at all. So, their entire Freeze may be Illegal, since "Due Process of Law" wasn't followed!!

Also NOTE that the FCC now wants to Auction off these Paging Licenses. This has never been done before in the whole History of Radio Communications - except in the last 1½ yrs. for the new PCS Radio-Telephone Services that will be starting in the US in the next 1-2 yrs. Note that we are totally AGAINST Auctioning off these Paging Licenses since the hundreds or thousands of small to medium sized Paging Companies in the US simply will not be able to afford to pay Millions of dollars for a License, (that they previously got for a very small fee for processing)!! So small to medium sized businesses may be hurt very badly and permanently by this FCC action. We all often hear President Clinton and other Congressmen and Senators praise "Small Business". But in reality, this FCC action to freeze all new paging licenses, and then auction them off for Millions of dollars is obviously just Another Gift to the big, huge, multi-million dollar firms in the U.S. like the Bell companies, NYNEX, Motorola, etc,etc. Again, the "little guys" get knocked out of the ballgame again - (and maybe even killed-off permanently, business-wise!).

We would all greatly appreciate it if you could contact the FCC Commissioners IMMEDIATELY, and convince them to IMMEDIATELY RELEASE this Freeze on Paging Licenses. Thank you very much!

Sincerely,

J. Joseph de Courcelle III

J. Joseph de Courcelle, III
President